



November 26, 1982

Mr. Joseph c. Folkard
Deputy County Counsel
1195 Third Street, Room 301
Napa, CA 94559

Dear Mr. Folkard:

This is in response to your letter of September 28, 1982, in which you request our opinion as to whether the penalty for failure to file a change in ownership statement could be removed from the secured roll and placed on the unsecured roll in the situation where the property is subsequently transferred to a bona fide purchaser.

Section 482 (d) provides that the penalty is to be added to the roll, with certain exceptions not applicable here, in the same manner as special assessments. Since special assessments are usually entered on the secured roll, the penalty should be too.

Although, personally, I think that from an equitable standpoint the one that was at fault for the penalty should be held liable, there is no specific statutory provision authorizing such a change once it is made. Lacking any such statutory authorization and since they have provided direction in other cases such as contained in Section 462(d) (3), it is my opinion that it cannot be changed. The only possible recourse I can think of the buyer has is a civil suit against the seller.

Very truly yours,

(Original signed by):

Glenn L. Rigby
Assistant Chief Counsel

GLR:fr

bc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafsen

CHANGE IN OWNERSHIP

220.0545 Possessory Interests. A change in ownership requiring reappraisal occurs upon the creation, renewal, sublease, or assignment of a taxable possessory interest in tax-exempt real property. Where an improvement is privately owned, only the possessory interest in the land is to be reappraised. LTA 3/21/80 (No. 80/48).